

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

JANINE CHANTELE HEBRON,

Plaintiff,

v.

CIVIL ACTION NO. 1:20-00148

WARDEN REHERMAN,
FPC Alderson,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of findings and recommendations regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Tinsley submitted to the court his Findings and Recommendation on May 7, 2020, in which he recommended that the district court dismiss plaintiff's petition under 28 U.S.C. § 2241 and this civil action.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days, plus three mailing days, in which to file any objections to Magistrate Tinsley's Findings and Recommendation. The failure of any party to file such objections constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989). Moreover, this court need not conduct a de novo review when a plaintiff "makes general and conclusory objections that do not direct the court to a specific error in the

magistrate's proposed findings and recommendations." Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982).

Rather than file objections, plaintiff filed a "Motion Requesting Civil Action 1:20-cv-00148 Be Combined to Civil Action 1:19-cv-00815 As Bivens Claim to Be Construed as Petitioner's Response to Findings and Recommendations Report". ECF No. 7. In that filing, plaintiff does not even grapple with the PF&R's ultimate conclusion that her claims "of discrimination by prison staff are properly asserted, if at all, in a Bivens action" and, therefore, not cognizable under 28 U.S.C. § 2241. ECF No. 5 at 3. Given the recommended dismissal of this action, there will be no case to consolidate. Accordingly, the motion to consolidate is **DENIED** and insofar as it might be construed as an objection to the PF&R, it is **OVERRULED**.

Having reviewed the Findings and Recommendation filed by Magistrate Judge Tinsley, the court hereby adopts the findings and recommendations contained therein. Accordingly, the court hereby **DISMISSES** plaintiff's petition under 28 U.S.C. § 2241 for a writ of habeas corpus and **DISMISSES** this civil action.

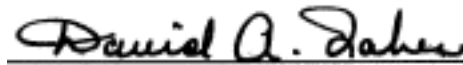
Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The standard is satisfied only upon a showing that

reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The Clerk is directed to forward a copy of this Memorandum Opinion and Order to plaintiff, pro se, and counsel of record.

IT IS SO ORDERED this 15th day of March, 2021.

ENTER:

A handwritten signature in dark ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge